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**Attorneys for Defendant  
Peter L. Jensen**

**UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**

SECURITIES AND EXCHANGE  
COMMISSION,

Plaintiff,

v.

PETER L. JENSEN AND THOMAS C.  
TEKULVE, JR.,

Defendants.

CASE NO. CV11-05316 R (AGRx)

**DEFENDANT PETER L. JENSEN'S  
REQUEST FOR JUDICIAL  
NOTICE FILED IN SUPPORT OF  
HIS OPPOSITION TO THE SEC'S  
MOTION FOR SUMMARY  
ADJUDICATION**

Date: September 4, 2012  
Time: 10:00 a.m.  
Judge: Honorable Manuel L. Real  
Crtrm.: 8

## REQUEST FOR JUDICIAL NOTICE

Pursuant to Rule 201 of the Federal Rules of Evidence, Defendant Peter Jensen hereby requests that the Court take judicial notice of the following Exhibits attached to the Declaration of William H. Forman (“Forman Decl.”) in support of Mr. Jensen’s Opposition to Plaintiff’s Motion for Summary Judgment (Doc. No. 40-1).

The documents exhibited to the Forman Declaration fall into two categories: (1) documents filed with the Securities and Exchange Commission (the “SEC”) and (2) publicly available stock trading data.

### EXHIBITS ATTACHED TO FORMAN DECL.

Exhibit	Description
A	Form S-1/A filed with SEC on May 9, 2006
B	Basin Water’s historical share price report as of May 18, 2011

## ARGUMENT

Federal Rule of Evidence 201 authorizes judicial notice of facts “capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.” Fed. R. Evid. 201(b)(2). The three exhibits attached to the Forman Declaration meet this requirement. Accordingly, judicial notice is mandatory “if requested by a party and [the court is] supplied with the necessary information.” *Papai v. Harbor Tug & Barge Co.*, 67 F. 3d 203, 207 n.5 (9th Cir.Fed.1995), *rev’d sub nom. on other grounds*, 520 U.S. 548 (1997) (quoting Fed. R. Evid. 201(d)).

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**I. THIS COURT SHOULD TAKE JUDICIAL NOTICE OF SEC FILINGS.**

Exhibits A (*see* Forman Decl., ¶ 2) is a form filed with the Securities and Exchange Commission (“SEC”), and so it may also be judicially noticed because it is a public SEC filings. *See Dreiling v. Am. Express Co.*, 458 F. 3d 942, 946 n.2 (9th Cir. 2006) (court may consider “any matter subject to judicial notice, such as SEC filings”); *In re Silicon Graphics Inc. Sec. Litig.*, 183 F. 3d 970, 986 (9th Cir. 1999) (affirming district court’s consideration of SEC filings on a motion to dismiss); *In re Copper Mountain Sec. Litig.*, 311 F. Supp. 2d 857, 863-64 (N.D. Cal. 2004) (taking judicial notice of documents filed with the SEC).

Accordingly, this Court should take judicial notice of Exhibit A to the Forman Declaration, a true and correct copy of Form S-1/A, as filed with the SEC on May 6, 2006.

**II. THIS COURT ALSO SHOULD TAKE JUDICIAL NOTICE OF PUBLICLY AVAILABLE STOCK DATA.**

Exhibit B (*see* Forman Decl., ¶ 3) is a report of Basin Water’s historical share prices as of May 18, 2011, and is judicially noticeable because the share prices “are publicly available and capable of accurate determination.” Fed. R. Evid. 201(b)(2); *Patel v. Parnes*, 253 F.R.D. 531, 547-48 (C.D. Cal. 2008); *In re Applied Signal Tech. Sec. Litig, Inc.*, No . C-05-1027-SBA , 2006 WL 1050174, at \* 12 (N.D. Cal . Feb. 8, 2006) (“court may also take judicial notice of ‘well-publicized stock prices’”); *Morgan v. AXT, Inc.*, No. C-04-4362-MJJ, C-05-5106-MJJ, 2005 WL 2347125, at \*7-8 (N.D. Cal. Sept. 23, 2005) (“a court may take judicial notice of a company’s public stock prices”). Accordingly, this Court should take judicial notice of Exhibit C to the Forman Declaration, a table listing Basin Water’s prices between May 11, 2006 to May 18, 2011.

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**CONCLUSION**

For the foregoing reasons, Mr. Jensen respectfully requests that the Court take judicial notice of the documents attached as Exhibits A and B to the Forman Declaration.

DATED: August 14, 2012	SCHEPER KIM & HARRIS LLP
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By: /s/ William H. Forman  
William H. Forman  
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